

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CARLOS RUIZ,

Plaintiff,

v.

KHEILA BRICE, *et al.*,

Defendants.

Case No. 2:23-cv-00427-GMN-VCF

ORDER

Plaintiff has filed a motion for appointment of counsel. (ECF No. 7.) In his motion, he argues that the issues in the case are complex, he is unable to afford counsel, and he currently suffers from glaucoma in both his eyes. (*Id.* at 2-3.)

A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford counsel.” However, the court will appoint counsel for indigent civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional circumstances’ exist, a court must consider the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Id.* “Neither of these considerations is dispositive and instead must be viewed together.” *Id.*

In the instant case, the Court does not find exceptional circumstances that warrant the appointment of counsel at this time. Plaintiff has not shown that he is likely to succeed on the merits of his case because he failed to state any colorable claims in his Complaint. (See ECF No. 5 at 9-10.) In addition, Plaintiff, like many other prisoners, cannot afford to retain private counsel. Finally, Plaintiff states that he has glaucoma in both his eyes, but he does not state the extent to which the glaucoma prevents him from litigating this case. Therefore, the Court does not find exceptional circumstances that warrant the

1 appointment of counsel and denies the motion for appointment of counsel without
2 prejudice. (ECF No. 7.)

3 While the Court denies Plaintiff's motion, it will extend the deadline to file an
4 amended complaint curing the deficiencies of his Complaint, as outlined in the screening
5 order. (See *generally* ECF No. 5.) Plaintiff must file the amended complaint on or before
6 July 27, 2023. If Plaintiff fails to file an amended complaint curing the deficiencies outlined
7 in the screening order, the Court will dismiss this action without prejudice for failure to
8 state a claim. The Court therefore orders that the Clerk of Court send Plaintiff a courtesy
9 copy of the Complaint (ECF No. 6) and the screening order (ECF No. 5).

10 DATED THIS 27th day of June 2023.

11 

12 UNITED STATES MAGISTRATE JUDGE